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8 **BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

9 IN THE MATTER OF ENFORCEMENT
10 ACTION AGAINST

11 Washington State Democratic Central
12 Committee

13 Respondent.

PDC CASE NO: 05-136

STIPULATION OF FACTS,
VIOLATIONS AND PENALTY

14 Washington State Democratic Central Committee (Respondent) and Public Disclosure
15 Commission Enforcement Staff (Staff) jointly submit this Stipulation of Facts, Violations and
16 Penalty for Commission consideration at the June 9, 2005 Commission meeting. The parties
17 agree that pursuant to RCW 42.17.360 *et seq.*, the Commission has the authority to accept,
18 decline, or to suggest modifications to this Stipulation.

19 **I. FACTS**

20 The parties hereto agree that the Report of Investigation dated May 26, 2005 with
21 exhibits contains accurate statements of fact and is incorporated in this Stipulation by
22 reference.
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24 A. *Contributions*

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STIPULATION OF FACTS,
VIOLATIONS & PENALTY

- 1 1. On September 14, 2004, Paul Berendt, Chair of the Washington State Democratic Central
2 Committee, notified the Public Disclosure Commission that the WSDCC planned to
3 transfer funds from its Federal Account to its State Non-Exempt Account. He stated that
4 the contributions to be transferred were from individual donors, and that each would be
5 reported to the PDC in accordance with this agency's rules for reporting monetary
6 contributions on forms C-3 and C-4.
- 7 2. On September 16, 2004, Susan Harris, then Assistant Director of the PDC, sent a letter to
8 Mr. Berendt, confirming that the individual contributions composing the amount to be
9 transferred to the WSDCC State Non-Exempt Account should be reported on form C-3 in
10 accordance with state law.
- 11 3. On October 22, 2004, the WSDCC electronically filed a form C-3 for the committee's State
12 Non-Exempt Account, indicating a deposit of \$394,544 on October 4, 2004. The source
13 of the funds was listed on the report as "WSDCC Federal." No individual contributors
14 were disclosed on the report.
- 15 4. The report's due date was October 12, 2004.
- 16 5. On at least three occasions from October 2004 through January 2005, PDC staff contacted
17 WSDCC staff to ascertain the whereabouts of the missing report information.
- 18 6. On January 24, 2005, the WSDCC electronically filed a form C-3 for the committee's State
19 Non-Exempt Account, disclosing the individual sources of \$394,544 in contributions
20 deposited on October 4, 2004. The report numbered 332 pages, and included more than
21 3,641 itemized contributions. Because it was initially filed as an original report, rather than
22 an amendment of the October 22, 2004 C-3, it was replaced by an amended report on
23 January 26, 2005.
- 24 7. The detailed contributor information was filed 103 days late.

25 B. *Expenditures*

- 1 8. On February 15, 2005, WSDCC independent auditor Phil Lloyd advised the PDC staff that
2 his audit had uncovered a significant amount of debt, incurred through candidate support
3 expenditures and required to be reported by the WSDCC's State Non-Exempt Account
4 prior to the November 2, 2004 general election, had not been reported.
- 5 9. On February 15, 2005, the WSDCC submitted amended C-4 reports for the 21 and 7 day
6 pre-general election and post-election reporting periods. The reports listed a total of
7 \$834,989 in debts incurred or outstanding during the periods covered by the reports. Some
8 part of this debt appeared to be duplicative, or carried over from one reporting period to the
9 next.
- 10 10. A total of \$704,815 in unique debt was required to be disclosed by WSDCC on the 21 and
11 7 day pre-general election C-4 reports, and on the post-general election report, and was
12 disclosed between 67 and 126 days late as noted below:

<u>C-4 Report</u>	<u>Debts</u>	<u>Days Late</u>
21-day C-4	\$124,521	126
7-day C-4	\$541,716	112
Post Election	<u>\$ 38,578</u>	67
Total Debt	\$704,815	

17 C. *Prior conduct*

- 18 11. On April 1, 2004 Mr. Berendt sent a letter to the PDC verifying that a required annual audit
19 of the WSDCC's books had been completed by Phil Lloyd. Mr. Lloyd's audit revealed
20 only minor discrepancies between WSDCC's records and its PDC filings, but noted that
21 \$34,233 in obligations to political consultants for the WSDCC's in-kind contributions in
22 October of 2003 appeared not to have been reported as debt on the party's 7 day pre-
23 general election C-4 report, and were disclosed on the C-4 only after the debts had been
24 paid.
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1 12. On February 2, 2004, then PDC Chief Political Finance Specialist Kurt Young completed a
2 limited scope audit of the 2002 WSDCC election activities. In an Auditor's Opinion Letter
3 sent to WSDCC Chair Paul Berendt on May 20, 2004, Mr. Young noted that no orders
4 placed, debts or obligations were reported by WSDCC's State Non-Exempt Account for
5 the 2002 general election. Mr. Young concluded that approximately \$185,740 in
6 expenditures made by WSDCC to political consulting firms for candidate support
7 expenditures should have been reported as orders placed, debts or obligations. He
8 reminded Mr. Berendt that WSDCC was required by WAC 390-16-205 to report
9 expenditures by consultants as if they had been made or incurred by WSDCC directly, and
10 enclosed a copy of the rule with his letter. He recommended that WSDCC develop better
11 internal controls to track orders placed, debts and obligations made through political
12 consultants for the 2004 election cycle.

13 13. On May 20, 2004, Philip Stutzman, the PDC's Director of Compliance, sent a letter to Mr.
14 Berendt cautioning Mr. Berendt that WSDCC was required to adhere to disclosure and
15 reporting requirements, including the requirement to disclose orders placed with political
16 consultants. He warned Mr. Berendt that failure by WSDCC to comply with reporting
17 requirements during future election cycles, including the specific requirements for orders
18 placed, debts and obligations, could result in enforcement action.

19 II. VIOLATIONS

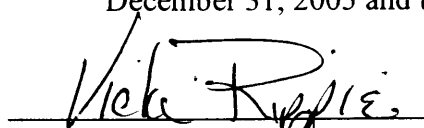
20 Respondent and Staff agree that based upon the facts stipulated above and set forth in
21 the Report of Investigation, the Respondent committed violations of RCW 42.17.080 and .090
22 by failing to timely report and disclose information required for \$394,544 in contributions from
23 individual donors. Additionally, Respondent and Staff agree that based upon the facts
24 stipulated above and set forth in the Report of Investigation, the Respondent committed
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multiple violations of RCW 42.17.080 and .090 by failing to timely disclose debts and orders placed that totaled \$704,815 for candidate support expenditures during the 2004 election.

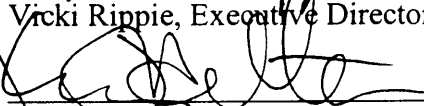
III. PENALTY

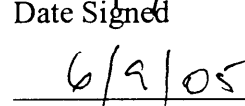
Based on the foregoing stipulations to facts and violations, the parties agree that the following penalty is appropriate:

1. A civil penalty in the amount of \$85,000.
2. Payment of \$2,500 in attorneys fees and costs of investigation.
3. Payment of the above shall be made as follows: \$52,500 to be paid on or before December 31, 2005 and the remainder to be paid on or before December 31, 2006.


Vicki Rippie, Executive Director


Date Signed


Kevin Hamilton, WSBA #15648
Attorney for Respondent


Date Signed